

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 15 2009

at 2 o'clock and 10 min. P. M.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL WILLIAM FLAHERTY,
MARGARET RONA LEE FLAHERTY,
BANK OF HAWAII, STATE OF HAWAII
DEPARTMENT OF TAXATION

Defendants,

Harris Investor Services, Inc.

successor in interest to

(f/k/a) Freeman Welwood &
Co., Inc.

E*TRADE Financial Corporation

successor in interest to

(f/k/a) Harris Investor
Services, Inc.

Ridge Clearing & Outsourcing

Solutions, Inc., successor in

interest to (f/k/a/ U.S.

Clearing Corp.)

Third Party

Defendants.

)
) Case No. CV08-000493 SOM KSC
)
) **THIRD PARTY COMPLAINT TO COMPEL**
) **PRODUCTION OF BUSINESS RECORDS,**
) **ALTERNATIVELY FOR JUDGMENT OVER**
) **AGAINST THIRD PARTY DEFENDANT**
) **FOR DAMAGES**

Comes now Michael William Flaherty¹ and for his third party
complaint states:

1. This third party complaint is brought pursuant to the

¹I hereby Verify, with limited appearance and all rights reserved
without prejudice to the original jurisdiction.

above captioned civil action brought by the United States seeking (i) to reduce to judgment the alleged federal income tax liabilities allegedly assessed against Michael William Flaherty, (referred to herein as the "defendant" for the years 1999, 2000, and 2001; and (ii) to foreclose its alleged federal tax liens against the real property described more fully in the Complaint.

2. This civil action is allegedly brought pursuant to 26 U.S.C. §§ 7401 and 7403, at the direction of the Attorney General of the United States, with the authorization and at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury.

3. The Court is alleged to have jurisdiction over this action pursuant to 26 U.S.C. § 7402 and 28 U.S.C. §§ 1340 and 1345.

4. Venue is alleged to lie in the judicial district wherein the defendant resides, where the alleged tax liabilities allegedly accrued, and where the real property at issue in this suit is located.

5. The defendant Michael William Flaherty has provided evidence to the United States Attorneys that effectively rebuts these "alleged liabilities".

6. The attorneys for the Plaintiff require third party verification of this rebuttal evidence.

7. The defendant Michael William Flaherty maintained a

custodial account with Freeman Welwood & Co., Inc. from which he recorded purchases and sales (transactions) on his own account of publicly traded corporate stocks until October, 1999; at which time the defendant transferred his account to Penson Financial Services, Inc., an organization not named in this third party complaint.

8. The assets and liabilities of Freeman Welwood & Co., Inc. were acquired by Harris Investor Services, Inc. a division of Harris Bank of Chicago, IL. in the year 2000.

9. The assets and liabilities of Freeman Welwood & Co., Inc. were acquired from Harris Bank of Chicago, IL. by E*Trade Financial Corporation, a Delaware corporation in the year 2005.

10. The defendant Michael William Flaherty maintained a custodial account with U. S. Clearing and Broker Dealer Services from which he recorded a purchase and sale on his own account of a single publicly traded corporate stock until January, 1999; at which time the defendant closed his account.

11. The assets and liabilities of U.S. Clearing and Broker Dealer Services businesses were acquired by Ridge Clearing & Outsourcing Solutions, Inc., a division of Broadridge Financial Solutions, Inc., of New York in the year 2005.

12. These third party defendants are and was at all times relevant to this complaint and associated third party complaint required by law to maintain records of the transactions completed

by the defendant.

13. Despite the foregoing, third party Defendant has failed to produce these records despite Subpoenas from the United States of America.

14. Despite the foregoing, third party Defendant has failed to produce these records despite letters requesting such from the United States of America.

15. Despite the foregoing, third party Defendant failed to produce these records despite letters from the defendant, and their prior customer, Michael William Flaherty.

16. Despite the foregoing, third party Defendant failed to produce these records despite numerous telephone calls from the defendant, a prior customer.

17. Defendant has requested and continues to request a jury trial.

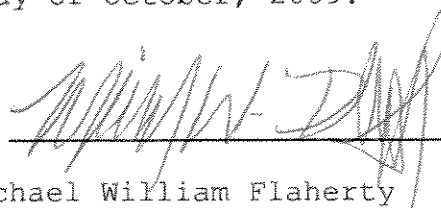
18. Defendant is contemporaneously with service of this third party complaint supplying third party defendant with a full set of pleadings, initial disclosures, and discovery responses now available to Plaintiff and Defendant via CD-ROM.

WHEREFORE, the defendant, Michael William Flaherty requests that the Court order the third party defendant to promptly supply copies of documentation showing the purchase price and date of purchase of all securities sold by third party defendant or any

predecessor in interest; alternatively that third party defendant be held personally liable for any damages associated with the tax imposed or judgment amounts due as a result of the failure to provide records to defendant Michael William Flaherty and this Court; and that the defendant Michael William Flaherty be awarded costs and such other relief as is just and proper.

Respectfully submitted this 16th day of October, 2009.

By

A handwritten signature in dark ink, appearing to read 'Michael W. Flaherty', is written over a horizontal line.

Michael William Flaherty

P.O. Box 1308

Kapaau, Hawaii 96755-1308

CERTIFICATE OF SERVICE

I, Michael William Flaherty, certify by my signature below that a true and correct copy of the foregoing was delivered by email (except for E*Trade Financial Corporation, which is sent via Registered First Class mail) this 16th day of October, 2009:

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October 16, 2009

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October 16, 2009

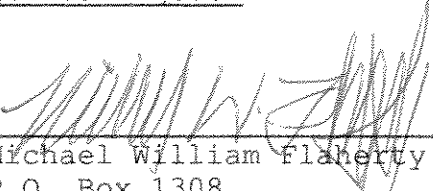
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